

EDUCATION DEPARTMENT[281]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 97, "Supplementary Weighting," Iowa Administrative Code.

This amendment is intended to comply with recent legislative changes that reauthorized and modified the current statute for supplementary weighting. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program. The amendment reflects these changes and provides clarity for the operation of the program for participating districts.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0967C**. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date, at which 53 individuals were present. A petition was presented with 230 signatures of superintendents representing school districts opposed to the proposed amendment. Printed materials in opposition to the rule making were presented at the hearing, and nearly an hour of public comment was heard from representatives of the group of 53. In general, commenters understood that the cost of the program was more excessive than planned under this law and that the Department was being conservative in this rule because of the higher-than-anticipated expenses; nevertheless, the commenters asserted that educational opportunities should be stressed and that many school districts have hired staff based upon the new law. Other district representatives shared that they hoped that a compromise could come forward that would protect the financial interests of the state while still allowing for the expansion of roles within this program with true cost coverage. In sum, commenters thought the rule was too strictly interpreted and would like to see expansion of the rule.

This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2013 Iowa Acts, House File 472, and Senate File 452, section 20(1).

This amendment shall become effective on November 20, 2013.

The following amendment is adopted.

Amend rule 281—97.7(257) as follows:

281—97.7(257) Supplementary weighting plan for operational services.

97.7(1) No change.

97.7(2) Operational function area eligibility. "Operational function sharing" means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, ~~or~~ facility operation or maintenance management, social worker, school nurse, school counselor, or school librarian. "Operational function sharing" does not mean sharing of clerical personnel, ~~librarians, counselors, nurses, and curriculum directors~~ or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

a. to e. No change.

f. Curriculum director.

(1) Shared personnel must perform the services of a curriculum director for each of the sharing partners. An individual performing the function of a curriculum director must be properly licensed for that position.

(2) Clerical, paraprofessional, or other support services personnel in the improvement of instruction function area shall not be considered a shared curriculum director under this subrule.

(3) Shared curriculum director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

g. School administration manager.

(1) Shared personnel must perform the services of a school administration manager for each of the sharing partners. An individual performing the function of a school administration manager must be properly licensed for that position.

(2) Principals, assistant principals, deans of students, or paraprofessional, clerical or other support services personnel in the school administration function area shall not be considered a shared school administration manager under this subrule.

(3) Shared school administration manager services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

h. Social worker.

(1) Shared personnel must perform the services of a social worker for each of the sharing partners. An individual performing the function of a social worker must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

(2) Assistants in social work or clerical, paraprofessional, or other support services personnel in the attendance and social work services function area shall not be considered a shared social worker under this subrule.

(3) Shared social worker services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

i. School nurse.

(1) Shared personnel must perform the services of a school nurse for each of the sharing partners. An individual performing the function of a school nurse must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

(2) Assistants, licensed practical nurses, or paraprofessionals, aides, clerical or other support services personnel in the health or psychological services function area shall not be considered a shared school nurse under this subrule.

(3) Shared school nurse services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

j. School counselor.

(1) Shared personnel must perform the services of a school counselor for each of the sharing partners. An individual performing the function of a school counselor must be properly licensed for that position.

(2) Deans of students or clerical, paraprofessional, or other support services personnel in the guidance services function area shall not be considered a shared school counselor under this subrule.

(3) Shared school counselor services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

k. School librarian.

(1) Shared personnel must perform the services of a school librarian for each of the sharing partners. An individual performing the function of a school librarian must be properly licensed for that position.

(2) Technology directors, media specialists, or paraprofessional, aide, clerical or other support services personnel in the library media services function area shall not be considered a shared school librarian under this subrule.

(3) Shared school librarian services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

97.7(3) Years of eligibility. A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, ~~2007~~ 2013.

a. Receipt of supplementary weighting after the first year shall be conditioned upon the submission of cost information provided in the format prescribed by the department of education as part of the BEDS fall data collection and certified annual report documenting cost savings directly attributable to the shared operational functions.

b. The documentation on the BEDS fall data collection shall be filed no later than the published deadline for that data collection and the documentation on the certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting.

97.7(4) *Contiguous districts.* School districts that share operational functions with other school districts ~~must be not required to be contiguous school districts. If two or more sharing partner districts are not contiguous to each other, all districts separating those districts must be a party to the operational function sharing arrangement.~~

97.7(5) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, ~~2012~~ 2018, and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years.

97.7(6) to 97.7(8) No change.

97.7(9) *Multiple shared individuals in an operational function.* A school district that implements more than one sharing arrangement within any discrete operational function area shall not be eligible for supplementary weighting if more than one shared individual is licensed and qualified for the same position. If the school district had utilized its own employees, the sharing arrangement or arrangements would not have been necessary.

97.7(9) 97.7(10) *Weighting.* Resident students eligible for supplementary weighting pursuant to rule 281—97.7(257) shall be eligible for a weighting of two-hundredths per pupil included in the actual enrollment in the district. The supplementary weighting shall be assigned to each discrete operational function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years.

a. ~~The supplementary weighting for operational functions shared is decreased each year based on the following schedule:~~

(1) ~~The total supplementary weighting calculated for all operational function sharing in the second year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

(2) ~~The total supplementary weighting calculated for all operational function sharing in the third year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

(3) ~~The total supplementary weighting calculated for all operational function sharing in the fourth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

(4) ~~The total supplementary weighting calculated for all operational function sharing in the fifth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

b. ~~The decrease in the total supplementary weighting as described in paragraph “a” of this subrule shall be applied after any adjustment for minimum or maximum weighting has been applied.~~

~~ε.~~ The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement, new arrangement, or continuing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

~~97.7(10)~~ **97.7(11)** *Maximum weighting.* The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to 40 full-time equivalent pupils ~~prior to any reduction pursuant to subrule 97.7(9).~~ The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function.

~~97.7(11)~~ **97.7(12)** *Minimum weighting.* The minimum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to ten additional pupils ~~prior to any reduction pursuant to subrule 97.7(9).~~ The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.

~~97.7(12)~~ **97.7(13)** *Filing cost-savings documentation.* Each school district that receives supplementary weighting for sharing one or more operational functions shall file with the department of education documentation of cost savings directly attributable to the shared operational functions. This documentation shall be submitted in the format prescribed by the department of education as part of the certified annual report and the BEDS fall data collection. The district or AEA shall report the FTE for each discrete operational function area eligible for supplementary weighting on its BEDS fall data collection. The documentation certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting and the BEDS fall data collection shall be filed no later than its published deadline. If a district or AEA does not file in a timely manner its certified annual report and its BEDS fall data collection, it will not be eligible to request operational function sharing supplementary weighting.

~~97.7(13)~~ **97.7(14)** *Determining cost savings.* The criteria considered by the department of education in determining shared operational function cost savings and increased student opportunities shall include, but not be limited to, the following:

a. The level of FTE for each discrete operational function area eligible for supplementary weighting as compared to the level of FTE for that same discrete operational function area in the 2012-2013 school year as reported on the BEDS fall data collection.

b. If, in the opinion of department staff, the FTE is not sufficient documentation on which to determine eligibility for operational function sharing supplementary weighting, the department may also review the following from the certified annual report:

~~α.~~ (1) The percent of costs calculated as the total of general fund expenditures for all operational functions that could be shared, in function codes 2300 and greater, divided by the total of all general fund expenditures, multiplied by 100, in the current prior fiscal year compared to the previous 2012-2013 fiscal year. The current prior fiscal year is the fiscal year ending on June 30 as reported on the certified annual report that includes the was due on September 15, prior to October 1 on which the district included any operational function shared for supplementary weighting. The decrease in percent shall be a measurable decrease of at least one-tenth of one percent in the first fiscal year for which cost savings are determined cost savings and increased student opportunities shall be evidenced by the percent which is less than or equal to the percent in the 2012-2013 fiscal year. In a year after the first fiscal year for which cost savings are determined, the percent of costs shall not be greater than the percent in the previous fiscal year.

b. The percent of costs calculated as the total of general fund expenditures for all instruction, student support, and instructional staff support functions divided by the total of all general fund expenditures, multiplied by 100, in the current year compared to the previous year. The current year is the fiscal year ending on June 30 that includes the October 1 on which the district included any operational function shared for supplementary weighting. The increase in percent must be a measurable increase of at least one-tenth of 1 percent in the first fiscal year for which increased student opportunities are determined. In a year after the first fiscal year for which increased student opportunities are determined, the percent of costs shall not be less than the percent in the previous fiscal year.

e. (2) The department of education will adjust the total expenditures to exclude distorting financial transactions or interagency financial transactions. Distorting financial transactions shall be determined by the department of education.

c. If the district increases the total FTE of personnel in any discrete operational function area eligible for supplementary weighting, the district will not be eligible for supplementary weighting for operational function sharing for that discrete operational function area until the fiscal year in which the FTE is decreased to or below the level reported by the district on its BEDS staff data collection in fiscal year 2012-2013.

d. If the district cannot demonstrate cost savings directly attributable to the shared operational function or increased student opportunities, the district will not be eligible for supplementary weighting for operational function sharing for that fiscal year.

97.7(14) 97.7(15) *Area education agency maximum funding.* The provisions of rule 281—97.7(257) also apply to an area education agency except for per-pupil weightings, minimum weightings, and maximum weightings.

a. In lieu of minimum weightings, an area education agency shall be eligible for a minimum amount of additional funding of \$50,000 for the total of all operational function sharing arrangements. ~~The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.~~

b. In lieu of maximum weightings, an area education agency shall be eligible for a maximum amount of additional funding of \$200,000 for the total of all operational function sharing arrangements. ~~The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.~~

c. In lieu of supplementary weighting of students, the department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency's special education cost-per-pupil amount and foundation level.

[Filed 9/26/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.